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REMARKS

Claims 41-51 are being withdrawn from consideration.

Claims 23 and 24 are being cancelled. Thus, the rejection of Claims 23 and 24 under 35 U.S.C. § 101, § 112 and § 103 is no longer applicable.

Restriction Requirement

The invention has been subjected to a restriction requirement under 35 U.S.C. § 121. The Examiner has withdrawn from consideration Claims 41-50 as being directed to an invention that is distinct from that of Claims 1-26. In the interest of expediting prosecution of the Application, Applicants withdraw from consideration Claims 41-50 (with prejudice), but reserve the right to include these claims in a divisional or other continuing application.

Rejection of Claim 1-22, 25 and 26 under 35 U.S.C. § 103(a)

Claims 1-5 and 7-22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Keating (hereafter Keating), "The New Business of Giving," Peter Keating, Beverly Goodman. Money. New York: 1998. Vol. 27, Iss. 13; pg. 92, 3 pgs., in view of Slane (U.S. Patent No. 6,567,790). Claims 6, 25 and 26 have been rejected under 35 U.S.C. § 103 as being unpatentable over Keating in view of Slane and further in view of the reference "The Fidelity Charitable Gift Fund Program Circular" ("Fidelity") or the reference "America's Charities Selects DonorNet as Exclusive E-Commerce Provider" (Editors, Business Editors 1999). Applicants respectfully disagree with these rejections for the reasons set forth below.

Regarding Claim 1, the Office Action states that Keating does not disclose.

Enabling (i) donor selection of specific assets from the subject donor investment portfolio for transferring as a gift to the receiving entity, and (ii) donor authorization of the gift of the selected assets such that tax valuation of each donor selected asset is defined (a) as a function of moment of donor authorization of the gift independent of transfer of each selected asset to the receiving entity and (b) as a result of an agency relationship with the receiving entity.

Embodiments of the present invention enable gift tax valuation of an asset as described above: as a function of moment of donor authorization of the gift independent of transfer of each

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selected asset. This is recited in base Claims 1 and 14. Thus, gift tax valuation can be defined as of a moment independent of the actual transfer of a selected asset (Specification, page 18, lines 14-18, and page 21, lines 1-10). The donor may, for example, authorize the transfer of an asset at time T1. At this moment (T1), embodiments of the invention may provide gift tax valuation of the asset, even though the asset has not been transferred to a receiving entity or to a trust. Then, at a later time T2, the asset may be physically transferred to the receiving entity (or to a trust, or the like). Thus, the moment of new ownership (whether the receiving entity or a trust) for purposes of gift tax valuation (T1) is made independent of the moment when the asset is transferred (T2) in the present invention.

Neither Keating, Slane nor Fidelity or Business Editors teach or suggest gift tax valuation or any tax valuation being defined as of a moment independent of the transfer of an asset. In particular, Slane merely discloses a method of managing a Grantor Retained Annuity Trust (GRAT). Slane discloses transferring assets into the GRAT in a conventional manner, whereby taxes are assessed when assets are actually, physically transferred (Slane, col. 3, lines 3-6, col. 4, lines 63-67). Rather, Slane's assessed taxes are dependent on the transfer of the asset. Nowhere does Slane disclose tax valuation independent of such transfer.

None of Keating, Fidelity or Business Editors adds to Slane the notion of gift tax valuation being defined as of a moment independent of the actual transfer of a selected asset. As a result, no combination of Keating, Slane, Fidelity or Business Editors teaches or suggests the present invention as now recited in Claims 1 and 14.

Claims 2-13, 15-22, 25 and 26 depend on one of Claims 1 and 14 and thus the foregoing applies. As a result, the § 103 rejections of Claims 1-22, 25 and 26 cannot stand, and Applicants respectfully request reconsideration.

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CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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